

**IN THE COURT OF APPEALS OF OHIO
ELEVENTH APPELLATE DISTRICT
TRUMBULL COUNTY**

STATE OF OHIO,
CITY OF WARREN,

Plaintiff-Appellee,

- vs -

NORMAN TACKETT,

Defendant-Appellant.

CASE NO. 2026-T-0007

Criminal Appeal from the
Warren Municipal Court

Trial Court No. 2025 CRB 001950

OPINION AND JUDGMENT ENTRY

Decided: September 8, 2026

Judgment: Affirmed

Enzo Cantalamessa, Warren City Law Director, 141 South Street, S.E., Warren, OH 44481 (For Plaintiff-Appellee).

Michael J. McGee, Western Reserve Legal Group, 201 High Street, N.E., Suite 1052, Warren, OH 44482 (For Defendant-Appellant).

SCOTT LYNCH, J.

{¶1} Defendant-appellant, Norman Tackett, appeals from his sentence for Assault in the Warren Municipal Court. For the following reasons, we affirm the judgment of the lower court.

{¶2} On October 31, 2025, a complaint was filed against Tackett in the Warren Municipal Court, charging him with Assault, a misdemeanor of the first degree, in violation of R.C. 2903.13. On December 19, 2025, Tackett entered a guilty plea to Assault.

{¶3} A sentencing hearing was held on January 30, 2026. Defense counsel described the offense, indicating that Tackett and the victim were at a bar and a conflict

arose relating to Tackett's wife. This dispute, the parties' intoxication, and "heightened emotions" led to the assault. He argued that there were no serious injuries or weapons involved, the altercation was brief, and the victim and defendant did not have any relationship with each other. He argued that Tackett accepted responsibility voluntarily, sought anger management counseling, is employed as a senior business advisor and adjunct professor, and would likely be fired if he had an extended period of incarceration. Tackett stated that he took responsibility for his actions and that he was remorseful.

{¶4} The victim indicated that, prior to the assault, Tackett had been "hiding in the ice machine," then hit him in the back of the head, knocking him out. Tackett continued to hit the victim until he retreated. He believed the assault was "premeditated." The victim stated that he had suffered pain for the past three months from the resulting injuries.

{¶5} The court indicated that it considered the purposes and principles of sentencing and reviewed the sentencing memorandum, police report, and counsel's arguments. It noted that it considered Tackett's acceptance of responsibility for the offense. The court found "it is very fortunate that [the victim] is able to be here today considering the harm that he did suffer. And, in fact, getting hit in the head . . . it could have been worse." It observed: "[T]he risk of harm to [the victim] was certainly very great . . . Medical records were provided where he had injury to his head, stiffness to his neck, was hit multiple times, [and] was on the ground with Mr. Tackett above him." The court found that the harm appears "substantial" and "prolonged." It noted that Tackett's "professional status does not excuse violence" and, given his education, "one would think [he] would have greater impulse control." The court ordered Tackett to serve 180 days in jail with 50 suspended and five years of probation and the parties stipulated to restitution

for medical bills in the amount of \$2,406.18. This court stayed the sentence pending appeal.

{¶6} On appeal, Tackett raises the following assignment of error:

{¶7} “The trial court abused its discretion by imposing a sentence of 180 days in jail (130 days actual incarceration), which is grossly disproportionate to the offense and contrary to the purposes and principles of misdemeanor sentencing under Ohio law.”

{¶8} Tackett argues that the trial court’s sentence was an abuse of discretion for several reasons, emphasizing the mitigating factors in favor of a lesser sentence, including his lack of a criminal record and the “less serious” nature of his conduct.

Misdemeanor Sentencing Principles

{¶9} “Misdemeanor sentencing lies within the discretion of the trial court and will not be disturbed absent an abuse of discretion.” *State v. Hogya*, 2023-Ohio-342, ¶ 14 (11th Dist.). An abuse of discretion occurs when the trial court fails “to exercise sound, reasonable, and legal decision-making.” *State v. Beechler*, 2010-Ohio-1900, ¶ 62 (2d Dist.), quoting *Black’s Law Dictionary* (8th Ed.2004).

{¶10} “A court that sentences an offender for a misdemeanor . . . shall be guided by the overriding purposes of misdemeanor sentencing” which are “to protect the public from future crime by the offender and others and to punish the offender.” R.C. 2929.21(A). “To achieve those purposes, the sentencing court shall consider the impact of the offense upon the victim and the need for changing the offender’s behavior, rehabilitating the offender, and making restitution to the victim of the offense.” *Id.*

{¶11} “In determining the appropriate sentence for a misdemeanor, the court shall consider” the following pertinent factors: “[t]he nature and circumstances of the offense”; whether the offender has a history of persistent criminal activity and his character reveals

“a substantial risk” he will commit another offense; whether his history, character and condition reveal a substantial risk he will be a danger to others and he has a pattern “of repetitive, compulsive, or aggressive behavior with heedless indifference to the consequences”; whether any factor relating to the victim made him vulnerable to the offense or the impact more serious; and whether the offender is “likely to commit future crimes in general.” R.C. 2929.22(B)(1)(a)-(e). While the sentencing court must consider the criteria in R.C. 2929.22(B), it does not “mandate that the trial court state on the record that it considered the applicable statutory factors” and a silent record raises the presumption that they were considered. (Citation omitted.) *State v. Oatman*, 2026-Ohio-1113, ¶ 38 (11th Dist.); *State v. Petrovich*, 2019-Ohio-3547, ¶ 23 (11th Dist.).

Sentence Commensurate with Conduct/Worst Form of the Offense

{¶12} Tackett first argues that the sentence is “disproportionate to the conduct.” The authority he cites for the proposition that “sentencing must be proportionate” relates to consecutive sentences. *State v. Jones*, 2024-Ohio-1083, ¶ 11 (11th Dist.) (observing that, pursuant to R.C. 2929.14(C)(4), the court considers whether “consecutive sentences are not disproportionate to the seriousness of the offender’s conduct”). There were no consecutive sentences here under which that authority applies.

{¶13} We recognize that R.C. 2929.21(B) provides that the sentence shall be “reasonably calculated to achieve the two overriding purposes of misdemeanor sentencing . . . commensurate with and not demeaning to the seriousness of the offender’s conduct and its impact upon the victim” and consistent with sentences for similar offenses. We do not find that the sentence is inconsistent with the seriousness of Tackett’s conduct. The court emphasized the danger presented by Tackett’s conduct including the possibility that the victim could have been more seriously harmed given the

injuries to his head, the various injuries to the victim, and the long-term pain that he suffered.

{¶14} Tackett argues that the offense falls within the “lowest end” of assault cases. He cites no authority for the proposition that a lesser sentence is warranted when an offense is in the “lowest end” of the offense. R.C. 2929.22(C) provides that “[a] court may impose the longest jail term authorized under section 2929.24 of the Revised Code only upon offenders who commit the worst forms of the offense or upon offenders whose conduct and response to prior sanctions for prior offenses demonstrate that the imposition of the longest jail term is necessary to deter the offender from committing a future criminal offense.” *State v. Takacs*, 2023-Ohio-3302, ¶ 6 (11th Dist.); *State v. Walker*, 2025-Ohio-436, ¶ 8 (11th Dist.). “[W]orst forms of the offense’ is not defined by statute and it is left primarily to the trial court’s discretion to determine its meaning.” *State v. Elzey*, 2025-Ohio-5322, ¶ 50 (2d Dist.). It includes “many conceivable forms, because the plural ‘forms’ contemplates ‘not just a single form of any offense that is the worst, but that more than one situation may be one of the worst forms of the offense.’” (Citation omitted.) *Id.*

{¶15} We observe that it has been found that the Ohio Supreme Court’s holding in *State v. Foster*, 2006-Ohio-856, relating to the “unconstitutionality of the statutorily required findings for sentencing felons to the maximum” sentence also “effectively destroys the validity of the required statutory findings for sentencing misdemeanants to the maximum.” *State v. Brooks*, 2006-Ohio-4610, ¶ 2 (7th Dist.). However, R.C. 2929.22(C) has not been overturned or invalidated by the Ohio Supreme Court and the requirement to consider the worst form of the offenses has continued to be referenced and applied by appellate courts. *State v. Boroff*, 2020-Ohio-5376, ¶ 15 (3d Dist.); *State v. Hammonds*, 2023-Ohio-2985, ¶ 48 (7th Dist.).

{¶16} We find it unnecessary to rule upon whether R.C. 2929.22(C) has been invalidated by *Foster* since the trial court’s sentence is valid even presuming a maximum sentence was permitted only if Tackett committed the worst form of the offense. The court clearly expressed concerns about the nature of the assault as addressed above. Misdemeanor assault under R.C. 2903.13(A) requires that a person “knowingly cause or attempt to cause physical harm to another.” In contrast, felonious assault occurs when a defendant causes “serious physical harm” to another. R.C. 2903.11(A)(1). Here, the victim was punched multiple times in the head and suffered several injuries, he sought medical treatment, required pain medication, and continued to suffer from pain for an extended period of time. This court has observed that serious physical harm can be reasonably inferred “[w]here injuries to the victim are serious enough to cause him or her to seek medical treatment.” (Citation omitted.) *State v. Heald*, 2025-Ohio-3031, ¶ 41 (11th Dist.). Given that the injuries were of the level that could have potentially elevated this offense to a felony, as well as the court’s concerns about the danger of the manner in which the assault was committed, the trial court could reasonably find this to be one of the worst forms of the offense rather than on the “lowest end” of the offense.

Consideration of Relevant Statutory Factors for Consistency in Sentencing

{¶17} While Tackett contends that “in comparable cases, courts routinely impose minimal jail time” or probation, he cites no authority for this proposition. R.C. 2929.21(B) provides that the sentence shall be “consistent with sentences imposed for similar offenses committed by similar offenders.” In relation to that provision, this court has adopted the reasoning, set forth in felony sentencing cases, that it “is not necessary to compare whether the sentence in the present matter is the same or similar to those [in other cases]. Rather, this court will evaluate whether the trial court properly performed

its duty to apply the required felony sentencing factors.” (Citation omitted.) *State v. Sanders*, 2025-Ohio-1603, ¶ 35 (11th Dist.). “[P]roper application of the statutory sentencing guidelines determines consistency” in misdemeanor sentencing. (Citation omitted.) *Id.*

{¶18} In ordering a misdemeanor sentence, the court is to be guided by the purposes under R.C. 2929.21 and required to consider those factors outlined in R.C. 2929.22. The court stated that it considered the purposes and principles of sentencing. It considered various relevant facts, including the harm to the victim, the danger of the conduct, and raised questions relating to Tackett’s impulse control, while also noting Tackett’s professional status and remorse. Further, the sentence was within the statutory range for a first-degree misdemeanor, as the court may impose a sentence of “not more than one hundred eighty days” for a first-degree misdemeanor. R.C. 2929.24(A)(1). “[W]hen the misdemeanor offender’s sentence is within the statutory limits and there is no affirmative indication on the record that the trial court failed to consider the factors set forth in R.C. 2929.22, the reviewing court is to presume the trial court considered the applicable statutory factors when it imposed the sentence.” *State v. Fromknecht*, 2023-Ohio-4604, ¶ 6 (11th Dist.), citing *State v. Corradetti*, 2022-Ohio-1279, ¶ 44 (11th Dist.). Tackett fails to demonstrate that the trial court did not do so.

{¶19} While Tackett takes issue with the trial court’s weighing of the factors, emphasizing his lack of criminal history, low risk of recidivism, and demonstrated remorse and rehabilitation efforts, we must review the trial court’s sentence for an abuse of discretion. It is evident the court had a basis rooted in the sentencing factors for its sentence as discussed above. We find no abuse of discretion.

Least Restrictive Sanction

{¶20} Finally, Tackett argues that the lower court failed to impose the “least restrictive sanction” and that the incarceration does not increase public safety, is unnecessary for deterrence, is inconsistent with rehabilitation, and will cause harm to society by causing him to have a likely loss of employment.

{¶21} Tackett fails to cite to any authority requiring the trial court to give him the “least restrictive sanction.” We recognize that, in felony sentencing R.C. 2929.11(A) provides that the court should use “the minimum sanctions that the court determines accomplish” the purposes of sentencing without imposing an unnecessary burden on resources. R.C. 2929.21, setting forth the principles for misdemeanor sentencing, does not discuss consideration of a minimum sentence. The court was permitted to impose a jail term, suspend all or part of that term, and place Tackett under community control as it did here. R.C. 2929.25(A)(1). For those reasons outlined above, we find no abuse of discretion in determining that a jail term was warranted under the facts of this case.

{¶22} The sole assignment of error is without merit.

{¶23} For the foregoing reasons, Tackett’s sentence in the Warren Municipal Court for Assault is affirmed. Costs to be taxed against appellant.

JOHN J. EKLUND, J.,

EUGENE A. LUCCI, J.,

concur.

JUDGMENT ENTRY

For the reasons stated in the Opinion of this court, the assignment of error is without merit. The order of this court is that the judgment of the Warren Municipal Court is affirmed.

Costs to be taxed against appellant.

JUDGE SCOTT LYNCH

JUDGE JOHN J. EKLUND,
concur

JUDGE EUGENE A. LUCCI,
concur

THIS DOCUMENT CONSTITUTES A FINAL JUDGMENT ENTRY

A certified copy of this opinion and judgment entry shall constitute the mandate pursuant to Rule 27 of the Ohio Rules of Appellate Procedure.